

Mr. Speaker, this legislation will make a number of changes to the Federal Advisory Committee Act, legislation enacted in 1972 to govern the operations, expenditures, and report requirements of advisory committees established to help Federal agencies on policy and other issues.

Specifically, this legislation would further increase the disclosure requirements for advisory committees and minimize the use of political affiliations in making appointments to advisory committees.

Today over 1,000 Federal advisory committees are involved in making key decisions that affect everyone's life on vital issues such as health care, civil rights, and national security. Increasing transparency and public involvement are essential to having a free and open process.

In strengthening the disclosure and transparency requirements of Federal advisory committees, however, we must be careful not to hinder the process by which the President and other executive branch agencies receive expert advice from these committees.

I am cautiously optimistic this legislation strikes a balance between these two priorities, but I trust the majority will continue to work with us as H.R. 5687 moves forward to make sure we do not impose any unnecessary burden upon advisory committees or their members.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I certainly look forward to working with the gentlewoman from North Carolina and her colleagues to perfect this bill and to get it to a point where we can all agree on it.

Mr. Speaker, I continue to reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, H.R. 5687, the Federal Advisory Committee Act Amendments of 2008, makes needed improvements to one of our core open government laws. I want to thank Chairman CLAY for introducing this bill and for his continued leadership in support of open government.

Advisory committees play a critical role in giving the President and agencies advice on complex issues. The Federal Advisory Committee Act, FACA, is intended to make the advisory committee process open and accountable to protect the independence and integrity of these committees. But in recent years, FACA has been undermined by the practices of the Bush administration. This bill is our response to these abuses:

One of my concerns over the last 8 years has been the growth of secrecy. This bill says that White House task forces can no longer operate in total secrecy. They must disclose whom they meet with and what recommendations they receive from special interests.

After President Bush was elected, he put Vice President CHENEY in charge of a task force to develop the administration's energy policy. Vice President CHENEY and his staff met secretly with oil, gas, nuclear, and coal executives. They developed a policy that has enriched the energy companies and their executives at the expense of American con-

sumers, our energy security, and our environment.

This bill says that task forces like the Vice President's energy task force must come out from the shadows.

Another issue the bill addresses is the growing politicization of science. As documented in a Committee staff report in August 2003, the administration manipulated scientific advisory committees by employing political litmus tests and filling advisory committees with members with conflicts of interest. H.R. 5687 says that advisory panels must be independent and requires agencies to obtain conflict of interest disclosures from all prospective committee members. The bill prohibits an agency from appointing an individual with a relevant conflict of interest unless the head of the agency determines that the need for the individual's services outweighs the potential impacts of the conflict. The bill requires agencies to publicly disclose the conflicts of advisory committee members on their Web sites.

H.R. 5687 also prohibits using political loyalty as a basis for making appointments to advisory committees.

H.R. 5687 addresses other loopholes that have emerged in FACA over the years. It says that FACA panels cannot avoid public disclosure by operating through subcommittees. This was the tactic used by the President's Commission to Strengthen Social Security. The legislation also closes the "de facto member" loophole by clarifying that agencies cannot avoid FACA by giving Federal employees the right to vote on an advisory committee but then having private sector individuals participate in the committee as if they were members.

A number of improvements have been made to the bill based on comments from the Office of Government Ethics, OGE, and others. For example, the amendment clarifies that nothing in the bill is intended to weaken existing ethics requirements for special government employees. Under the amendment, a committee member appointed as a special government employee will be required to disclose any conflict of interest, as OGE defines that term, beyond what is disclosed in the member's financial disclosure report. This is intended to prevent special government employees from having to disclose the same conflict twice if they would already be required to disclose it through a financial disclosure report.

The bill leaves it to OGE to determine what disclosures are required beyond what has to be reported in a financial disclosure report. OGE should consider what interests a committee member may have that would not be uncovered in a financial disclosure report but that still may compromise the member's objectivity. For example, a committee member who held a position 2 years ago with an entity that would be affected by a decision of the committee could be considered to have a conflict even though the member's previous position would not be reported in a financial disclosure report.

Last year, we enacted reforms to another important open government law, the Freedom of Information Act. I hope this year we will continue our efforts to improve the transparency and accountability of government by enacting this bill. I urge my colleagues to support H.R. 5687.

I submit the following letters for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, June 24, 2008.

Hon. HENRY WAXMAN,
Chairman, Committee on Oversight and Government Reform, House of Representatives,
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN: The Committee on Ways and Means applauds your efforts to foster greater federal advisory committee transparency and accountability. However, the Committee has concerns about some potential unintended effects that your bill, H.R. 5687, the Federal Advisory Committee Act Amendments of 2008, might have on the advisory committee system established under the Trade Act of 1974, as amended. While the Committee is still reviewing H.R. 5687, of particular serious concern are sections 2 and 4 of the bill.

The Committee will forgo action on this bill and will not oppose its consideration on the suspension calendar based on our understanding that changes will be made to H.R. 5687 as it moves through the legislative process. These changes will ensure that application of the Federal Advisory Committee Act on the trade advisory committees under the Trade Act of 1974, as amended, is consistent with and does not extend beyond requirements set forth in current law.

This request is made with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or the full exercise of its jurisdictional prerogatives on this bill or similar legislation in the future.

The Committee intends to look for opportunities to improve the transparency and accountability of the federal advisory committees established under the Trade Act of 1974, as amended, in ways consistent with their purpose and aim. We look forward to soliciting your suggestions for reform.

Sincerely,

CHARLES B. RANGEL,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, June 24, 2008.

Hon. CHARLES B. RANGEL,
Chairman, Committee on Ways and Means,
Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN RANGEL: I understand there are special circumstances surrounding the creation and functioning of the advisory committee system established under the Trade Act of 1974, as amended.

As the bill moves through the legislative process, changes to H.R. 5687, the Federal Advisory Committee Amendments Act of 2008, will be made to address fully the concerns raised by the Committee on Ways and Means to your satisfaction.

I look forward to working with the Committee on Ways and Means as this bill moves through the legislative process.

Sincerely,

HENRY A. WAXMAN,
Chairman.

Ms. FOXX. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I urge my colleagues to vote in favor of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules